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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,887	01/28/2000	Dr. Norbert Ettner	Beiersdorf 602-WCG	2789

7590 08/09/2002

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EXAMINER

MONSHIPOURI, MARYAM

ART UNIT	PAPER NUMBER
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1652

DATE MAILED: 08/09/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

## Advisory Action

Application No.  
**09/493,887**

Applicant(s)  
**Ettner et al.**

Examiner  
**Maryam Monshipouri**

Art Unit  
**1652**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Jul 15, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: hydrogels comprising proteins with activities other than scavenging free radicals drawn to non-elected invention requires new prior art search.

3. ☐ Applicant's reply has overcome the following rejection(s):  
\_\_\_\_\_  
\_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
see the attached sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_
- Claim(s) objected to: \_\_\_\_\_
- Claim(s) rejected: 1-3, 5, and 11-16
- Claim(s) withdrawn from consideration: \_\_\_\_\_
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other:

Art Unit:

Applicant's after final amendment filed 7/15/02 (paper #12) is acknowledged. However, said amendment has not been entered for the following reasons:

Claims 1-3, 5 and 11-16 remain rejected under U.S.C. 103(a) as being unpatentable over Fortier (cited previously) in view of Galin cited previously further in view of current wound treatment/protection techniques according to previous office action due to the following reasons:

(1) applicant's arguments directed to Fortier's hydrogel requiring BSA, discouraging skilled artisan to create albumin-free hydrogel is not relevant because instant claims do not recite a hydrogel prepared in the absence of BSA.

(2) With respect to applicant's traversal of Galin's suitability to be used in combination with Fortier, applicant is reminded that Galin was merely cited to show that diisocyanate was used for activation of PEG with molecular weights recited in originally filed claim 2 (now canceled). Otherwise the prior art provides overwhelming number of citations including Patent No. 5,000,955 cited in the IDS, where diisocyanate has been used for activation of PEG's. Further Galin's reference does not explicitly say that **all** urea residues in their PEG are blocked.

(3) The point is well taken that the hydrogel of this invention may have superior gelation times to those in the prior art. However, in instant claim 1 no recitation of unexpected and superior gelation times of this invention is present.

Therefore based on reasons provided above as well as those provided in the previous office action claims 1-3, 5 and 11-16 remain rejected.

  
Maryam Monshipouri Ph.D.  
Patent Examiner